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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,572	12/05/2003	Ian Zenoni	2050.100/US1	8936
44367	7590	08/05/2010		
SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV				
P.O. BOX 2938				
MINNEAPOLIS, MN 55402-0938				
EXAMINER				
SCHNURR, JOHN R				
ART UNIT		PAPER NUMBER		
2421				
NOTIFICATION DATE		DELIVERY MODE		
08/05/2010		ELECTRONIC		

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/728,572
Filing Date: December 05, 2003
Appellant(s): ZENONI, IAN

Bradley Scheer
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 06/04/2010 appealing from the Office action mailed 09/10/2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-17

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

2004/0049790	Russ et al.	3-2004
2002/0199190	Su	12-2002
2001/0000194	Sequeira	4-2001
6,918,118	Standridge et al.	7-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **1-6, 9-14 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Russ et al. (US 2004/0049790)**, herein Russ, in view of **Su (US 2002/0199190)** further in view of **Sequeira (US 2001/0000194)**.

Consider **claim 1**, Russ clearly teaches a method for sending interactive textual and graphical data from a content provider to a set-top box through a satellite broadcast system, said method comprising:

receiving said textual data and said graphical data from said content provider in a server that is located in an uplink center; **(Fig. 1: Content servers 102 and 104 provide data to BCS server 106, [0018] and [0019]. The BCS server 106 broadcasts the data over a satellite network, [0021]. The data may include program guide data, which includes textual and graphical data, [0015].)**

retrieving said textual and said graphical data from said server into an application streamer coupled to said server;
using said application streamer to create a file directory structure comprising at least one data file and at least one graphical data file; **(Fig. 4: The BCS server 106 creates a hierarchical file system containing all data available from the content servers, [0028]-[0030].)**

using said application streamer to create a node tree on a broadcast streamer by mirroring said file directory structure such that each file in said file directory structure becomes a node with a corresponding priority in said node tree on said broadcast streamer; **(Each of the files in the file system are assigned a position for broadcast, [0031]-[0032]. The BCS server 106 broadcasts higher priority files more frequently, [0033].)**

allocating bandwidth and transmission frequency to each node of said node tree based on the corresponding priority of each said node; **(The BCS server 106 broadcasts certain files more frequently, [0033].)**

using said broadcast streamer to multiplex said nodes of said node tree with a regular broadcast stream resulting in an interactive data stream; **(The carousel objects are received in-band, [0036].)**

However, Russ does not explicitly teach converting said textual data and said graphical data into interactive data in said application streamer, compatible with the set-top box.

In an analogous art, Su, which discloses a system for broadcasting a carousel of data, clearly teaches converting said textual data and said graphical data into interactive data in said application streamer, compatible with the set-top box. **(Fig. 4: H20 248 converts the content into client readable content, [0034].)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Russ by converting text data and graphical data into set-top box compatible interactive data, as taught by

Su, for the benefit of broadcasting data requiring less bandwidth and client processing ([0010] Su).

Russ further teaches the content servers creating and modifying directories on the BCS server ([0032]) and assigning higher priority to certain files ([0033]). However, Russ does not explicitly teach the directories being structured based on file priority.

In an analogous art, Sequeira, which discloses a system for broadcasting carousel data, clearly teaches storing an indication of file priority with the file in the directory structure, the priority determined using information about the file ([0087]).

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Russ by including priority of the file in the directory structure, as taught by Sequeira, for the benefit of allowing the content servers to select the priority.

Consider **claim 2**, Russ combined with Su and Sequeira, as in claim 1, clearly teaches using set-top box application software to read said interactive data stream and display said interactive data stream on a user's display device; ([0036] Russ) and monitoring said application streamer with a computer. ([0032] Russ)

Consider **claim 3**, Russ combined with Su and Sequeira, as in claim 1, clearly teaches said step of retrieving said textual data and said graphical data from said server further comprises querying said server for new data. **(The network operator retrieves the content from services 200, [0034] Su.)**

Consider **claim 4**, Russ combined with Su and Sequeira, as in claim 1, clearly teaches said step of converting said textual data and said graphical data into said interactive data compatible with the set-top box further comprises creating system alerts. ([0095] Su)

Consider **claim 5**, Russ combined with Su and Sequeira, as in claim 1, clearly teaches said step of creating system alerts comprises creating alerts upon detection of errors within said broadcast system using SNMP traps, event logging, and visual queues in a graphical user interface. ([0039], [0040] and [0095] Su)

Consider **claim 6**, Russ combined with Su and Sequeira, as in claim 1, clearly teaches said step of monitoring said application streamer by a computer further comprises monitoring said application streamer, configuring said application streamer, making any necessary changes to said application streamer. **(The**

BCS server 106 monitors the files being added and deleted from the file system and modifies the files being broadcast, [0031] and [0032] Russ.)

Consider **claim 9**, see claim 1.
Consider **claim 10**, see claim 2.
Consider **claim 11**, see claim 3.
Consider **claim 12**, see claim 4.
Consider **claim 13**, see claim 5.
Consider **claim 14**, see claim 6.

Consider **claim 17**, Russ combined with Su and Sequeira, as in claim 1, clearly teaches sending said interactive data stream to said set-top box. **([0036] Russ)**

Claims **7, 8, 15 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Russ et al. (US 2004/0049790)** in view of **Su (US 2002/0199190)** in view of **Sequeira (US 2001/0000194)**, as applied to claim 6 above, further in view of **Standridge et al. (US 6,618,353)**, herein Standridge.

Consider **claim 7**, Russ combined with Su and Sequeira, as in claim 6, clearly teaches monitoring the application streamer.

However, Russ combined with Su and Sequeira, as in claim 6, does not explicitly teach using a DCOM user interface over a network connection.

In an analogous art, Standridge, which discloses a system for distributing video data, clearly teaches using a DCOM user interface over a network connection. **(column 2 line 59 to column 3 line 14)**

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Russ combined with Su and Sequeira by using a DCOM user interface over a network connection, as taught by Standridge, for the benefit of automatically handling the details of network communication protocols.

Consider **claim 8**, Russ does not specifically teach said step of monitoring said application streamer further comprises monitoring the connection to said broadcast streamer, monitoring the connection to said server, and monitoring the status of said interactive data stream on said broadcast server.

Su additionally teaches monitoring said application streamer further comprises monitoring the connection to said broadcast streamer, monitoring the connection to said server, and monitoring the status of said interactive data stream on said broadcast server. (([0039], [0040] and [0095] Su)

Therefore, at the time the invention was made, it would have been obvious to one with ordinary skill in the art to modify the system of Russ combined with Su, Sequeira and Standridge by monitoring the connection to said broadcast streamer, monitoring the connection to said server, and monitoring the status of said interactive data stream on said broadcast server, as further taught by Su, for the benefit of detecting errors.

Consider **claim 15**, see claim 7.
Consider **claim 16**, see claim 8.

(10) Response to Argument

In response to appellant's argument (Appeal Brief pgs. 13-14) that the rejection of claim 1 is improper because Sequeira does not disclose "the priority for each file determined using information **about each file present in said textual data and said file directory structure comprising at least one data file and at least one graphical data file formatted by the application streamer to be compatible with the set-top box**" (emphasis original), the examiner respectfully disagrees. Appellant argues that Sequeira was relied on exclusively to meet this limitation. However, this is incorrect in that the rejection was based on a combination of references. Russ discloses creating a file directory structure ([0028]-[0030]) containing textual and graphical data files (program guide data includes graphics and text [0015]) and assigning each file a priority (some files are broadcast more frequently, i.e. higher priority [0033]). Su discloses converting carousel data, including text and graphics, into client suitable format ([0034]). Sequeira was merely relied upon to disclose the directories being structured based on

file priority. Sequeira discloses creating a carousel based on priority levels of the assets, the priority information is present in the textual data of the asset ([0087]).

In response to appellant's argument (Appeal Brief pg. 14) that Russ does not disclose assigning a priority to each file in the file directory structure, the examiner respectfully disagrees. Russ discloses broadcasting files more or less frequently ([0033]). Files broadcast more frequently are of higher priority than files broadcast less frequently.

In response to appellant's argument (Appeal Brief pgs. 14-15) that Russ does not disclose "allocating bandwidth and transmission frequency to each node of said node tree based on the corresponding priority of each said node," the examiner respectfully disagrees. Russ discloses broadcasting certain files more often than other files ([0033]). A file that is transmitted a large number of times will require more bandwidth than a file transmitted a smaller number of times.

In response to appellant's argument (Appeal Brief pg. 15) that Russ does not disclose broadcasting an interactive data stream, the examiner respectfully disagrees. Russ clearly discloses broadcasting an *interactive* program guide (IPG) to the user device ([0015]). An IPG allows a user to *interact* with a graphical user interface perform various functions such as program selection.

In response to applicant's argument (Appeal Brief pgs. 15-16) that the examiner has combined an excessive number of references, reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/John Schnurr/

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Conferees:

/John W. Miller/

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/Andrew Y Koenig/

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